

# MAINE STATE LEGISLATURE

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**LEGAL AFFAIRS**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1110, L.D. 1506, Bill, "An Act to Amend the Laws Governing Municipal Elections"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

**Sec. 1. 20-A MRSA §1202, sub-§5, ¶A**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Municipalities voting on the questions of district formation under Title 30-A, sections 2528 to 2531, 2531-A shall open the polls at 10 a.m. and shall close the polls at 7 p.m.

**Sec. 2. 28-A MRSA §121, sub-§1**, as amended by PL 1987, c. 147, §1, is further amended to read:

**1. Petition.** A petition for a local option election must be signed by a number of voters equal to at least 15% of the number of votes cast in that municipality in the last gubernatorial election. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least 42 45 days before holding any primary, special statewide, general or municipal election or town meeting.

**Sec. 3. 28-A MRSA §121, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

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2           **3. Conduct of election.** Except as provided in this  
3 section, the petition process and the voting at elections held in  
4 towns and plantations shall must be held and conducted in  
5 accordance with Title 30 30-A, sections 2061 2528, 2062 2529 and  
6 2065 2532, even if the town or plantation has not accepted the  
7 provisions of section 2061 2528. The voting at elections held in  
8 cities must be held and conducted in accordance with Title 21-A.  
9 No referendum questions except those set out in section 123 may  
10 be printed on the ballot. The municipal clerk shall make a  
11 return of the results, certify the results and send it to the  
12 office of the Secretary of State. The Secretary of State shall  
13 forward the results to the commission.

14           **Sec. 4. 30-A MRSA §2102, sub-§4, ¶C**, as amended by PL 1989, c.  
15 104, Pt. C, §§8 and 10, is further amended to read:

18           C. When an original or supplementary petition has been  
19 certified insufficient, the committee, within 2 days after  
20 receiving the copy of the clerk's certificate, may file a  
21 request with the municipal officers for review.

22           The municipal officers shall inspect the petitions in  
23 substantially the same form, manner and time as a recount  
24 hearing under section 2531 2531-A and shall make due  
25 certificate of that inspection. The municipal officers  
26 shall file a copy of that certificate with the municipal  
27 clerk and mail a copy to the committee. The certificate of  
28 the municipal officers is a final determination of the  
29 sufficiency of the petitions.

32           **Sec. 5. 30-A MRSA §2354, sub-§5**, as amended by PL 1989, c.  
33 104, Pt. C, §§8 and 10, is further amended to read:

34           **5. Inspection and recount.** Upon written application of 10%  
35 of the persons, or 100 persons, whichever is less, whose names  
36 were checked on the voting lists at any quasi-municipal  
37 corporation or district referendum held under this chapter, a  
38 ballot inspection or a recount hearing shall must be granted.  
39 The time limits, rules and all other matters applying to  
40 candidates under sections 2530 2530-A and 2531 2531-A apply  
41 equally to applicants for either the inspection or recount.

44           **Sec. 6. 30-A MRSA §2528, sub-§4, ¶¶C and D**, as amended by PL  
45 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

46           C. Completed nomination papers or certificates of political  
47 caucus nomination must be filed with the clerk during  
48 business hours by the 35<sup>th</sup> 45<sup>th</sup> day prior to election day.  
49 They must be accompanied by the written consent of the  
50 person proposed as a candidate agreeing:

- 2 (1) To accept the nomination if nominated;  
4 (2) Not to withdraw; and  
6 (3) If elected at the municipal election, to qualify  
8 as such municipal officer.

10 When these papers and certificates are filed, the clerk  
12 shall make ~~these papers and certificates~~ them available to  
public inspection under proper protective regulations. The  
clerk shall keep them in the office for 6 months.

14 D. A nomination paper or a certificate of political caucus  
16 nomination which that complies with this section is valid  
18 unless a written objection to it is made to the ~~selectmen~~  
municipal officers by the ~~33rd~~ 43rd day prior to election  
day.

20 (1) If an objection is made, the clerk shall  
22 immediately notify the candidate affected by it.

24 (2) The ~~selectmen~~ municipal officers shall determine  
objections arising in the case of nominations. Their  
26 decision is final.

28 **Sec. 7. 30-A MRSA §2528, sub-§6, ¶F**, as amended by PL 1989, c.  
104, Pt. C, §§8 and 10, is further amended to read:

30 ~~F. Before distribution, the ballot shall~~ Ballots must be  
32 folded uniform in marked creases to measure, when folded,  
~~from 4-1/2 to 5 inches wide and from 6 to 13-1/2 inches long~~  
34 size. On the back and outside, when folded, shall be  
~~printed~~ ballot must appear "Official Ballot for the Town of  
36 .....", the date of election and a facsimile of the signature  
of the clerk.

38 **Sec. 8. 30-A MRSA §2528, sub-§6-A** is enacted to read:

40 6-A. Candidate withdrawal; new ballots. The following  
42 provisions govern the withdrawal of a candidate from an elective  
race.

44 A. A candidate may withdraw from an elective race by  
46 notifying the municipal clerk in writing of the candidate's  
intent to withdraw and the reason for withdrawal at least 45  
48 days before the election. This notice must be signed by the  
candidate and must be notarized.

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2 B. Within the 45-day period before an election, the  
4 municipal clerk may allow a candidate to withdraw from an  
6 elective race. A candidate who requests to withdraw within  
8 the 45-day period before an election shall notify the  
10 municipal clerk in writing of the candidate's intent to  
12 withdraw and the reason for withdrawal. This notice must be  
14 signed by the candidate and must be notarized.

16 C. The municipal clerk shall ensure that new ballots are  
18 produced, if necessary, to reflect the withdrawal of a  
20 candidate from an elective race.

22 **Sec. 9. 30-A MRSA §2529, sub-§2, as amended by PL 1989, c.**  
24 **104, Pt. C, §§8 and 10, is further amended to read:**

26 **2. Absentee ballot.** ~~The absentee ballot requirements of~~  
28 ~~Title 21-A, section 752, apply, provided that the words "Absentee~~  
30 ~~Ballet" are marked conspicuously, instead of printed, on both~~  
32 ~~sides of the folded ballot, if at least one such marking includes~~  
34 ~~an attestation with the written signature of the clerk and is~~  
36 ~~sealed with the municipal seal.~~

38 **Sec. 10. 30-A MRSA §2530, as amended by PL 1989, c. 104, Pt.**  
40 **C, §§8 and 10, is repealed.**

42 **Sec. 11. 30-A MRSA §2530-A is enacted to read:**

44 **§2530-A. Candidate's inspection of ballots and incoming voting**  
46 **lists**

48 This section governs all inspections of ballots and incoming  
50 voting lists cast in any election for municipal office.  
Inspection procedures for other offices do not apply to elections  
for municipal office.

If a candidate other than a declared winner in an election  
applies in writing to the municipal clerk within 5 days after the  
result of a city election or an election under section 2528 has  
been declared, the municipal clerk shall permit the candidate or  
the candidate's agent, after payment of any deposit required  
under subsection 2, to inspect the ballots and incoming voting  
lists under proper protective regulations. The final day of the  
5-day period ends at the close of regular business hours in the  
office of the municipal clerk. The candidate requesting the  
inspection may request a random or complete inspection of the  
ballots and incoming voting lists.

Any inspection of ballots and incoming voting lists is  
subject to the following provisions.

1. Notice. The inspection may be permitted only after written notice by the municipal clerk to:

A. The ward officers who signed the election returns in a city or the moderator in a town; and

B. All candidates for the office specified in the application.

This notice must state the time and place of the inspection and provide the persons listed in paragraphs A and B with a reasonable opportunity to be present and heard in person or to be represented by counsel.

2. When deposit is required. A deposit is not required if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a ballot inspection and the percentage of the total votes for that office received by the nearest winning candidate.

3. Amount of deposit. The amount of the deposit is determined by the clerk of the municipality and must be 50% of the reasonable estimate of the cost to the municipality performing the inspection.

4. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if a subsequent recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than

1 the deposit, the candidate shall pay the remainder of the actual  
2 cost to the municipality. A candidate who is not required to pay  
3 a deposit pursuant to subsection 2 may not be charged for the  
4 inspection or recount regardless of whether the procedure changes  
5 the result of the election.

6  
7 5. Time of inspection. The inspection must be held within  
8 5 days after the municipal clerk receives the written application  
9 requesting an inspection.

10  
11 6. Packages resealed. After each inspection, the municipal  
12 clerk shall resealed the packages of ballots and the incoming  
13 voting lists and shall note the fact and date of inspection on  
14 them.

15  
16 7. Candidate defined. As used in this section and section  
17 2531-A, "candidate" means any person who has received at least  
18 one vote for the municipal office in question.

19  
20 8. Calculation of time. The periods established in this  
21 section must be calculated according to the Maine Rules of Civil  
22 Procedure, Rule 6(a). The final day of any period calculated  
23 pursuant to this section ends at the close of regular business  
24 hours in the office of the municipal clerk. Actions required to  
25 be taken by the end of a day certain that are taken after the  
26 close of regular business hours in the office of the municipal  
27 clerk on the day certain are not timely.

28  
29 **Sec. 12.** 30-A MRSA §2531, as amended by PL 1989, c. 104, Pt.  
30 C, §§8 and 10, is repealed.

31  
32 **Sec. 13.** 30-A MRSA §2531-A is enacted to read:

33  
34 **§2531-A. Recount hearing**

35  
36 This section governs all recount hearings in any election  
37 for municipal office. Recount procedures for other offices do  
38 not apply to elections for municipal office.

39  
40 A candidate other than a declared winner in an election may  
41 apply in writing to the municipal clerk for a recount, pursuant  
42 to subsection 4, within 5 days after the results of an election  
43 for municipal office are declared or within 5 days after an  
44 inspection pursuant to section 2530-A. The final day of the  
45 periods provided in this paragraph ends at the close of regular  
46 business hours in the office of the municipal clerk.

47  
48 Any recount pursuant to this section is subject to the  
49 following provisions.

1. When deposit is required. A deposit is not required if the candidate requesting the recount has already paid a deposit pursuant to an inspection under section 2530-A for the same office in the same election or if the percentage difference shown by the official tabulation is equal to or less than:

A. Two and one-half percent, if the combined vote for the candidates is 1,000 or less;

B. Two percent, if the combined vote for the candidates is 1,001 to 5,000; or

C. One and one-half percent, if the combined vote for the candidates is 5,001 or over.

For purposes of this subsection, "percentage difference" means the difference between the percentage of the total votes for an office received by the candidate requesting a recount and the percentage of the total votes for that office received by the nearest winning candidate.

2. Amount of deposit. The amount of the deposit is determined by the municipal clerk and must be 50% of the reasonable estimate of the cost to the municipality of performing the recount.

3. Forfeiture or refund of deposit. All deposits required by this section must be made with the municipal clerk when a ballot inspection is requested. This deposit, made by the candidate requesting the ballot inspection, is forfeited to the municipality if a recount fails to change the result of the election. If a recount changes the result of the election, the deposit must be returned to the candidate who paid the deposit. After the completion of the recount, if the recount has not changed the result of the election, the municipality shall calculate the actual cost of the procedure. If the deposit was greater than the actual cost, the overpayment must be refunded to the candidate. If the actual cost was greater than the deposit, the candidate shall pay the remainder of the actual cost to the municipality. A candidate who is not required to pay a deposit pursuant to subsection 1 may not be charged for the inspection or recount regardless of whether the procedure changes the result of the election.

4. Notarized request. The candidate must request the recount by filing a notarized request with the municipal clerk within the time period provided in this section. The notarized request must state the office for which that person was a candidate and the reason for the recount based on the candidate's own knowledge or on information and belief.



2           5. Date of hearing and notice. When the petition has been  
3 filed, the municipal clerk shall immediately set a date for the  
4 recount hearing, which must be held within 5 days after the  
5 petition is filed. The municipal clerk shall notify the  
6 municipal officers, the petitioner and the opposing candidates of  
7 the hearing date.

8  
9  
10           6. Procedure at recount. The procedure at the recount  
11 hearing is as follows.

12           A. The municipal clerk shall sort and count the votes under  
13 the supervision of the municipal officers who were in office  
14 immediately before the election. If the votes were  
15 originally counted by automatic tabulating equipment, the  
16 municipal clerk may use automatic tabulating equipment to  
17 recount the votes.

18           B. The municipal officers in making corrected returns, in  
19 their discretion, may accept any facts that the candidates  
20 agreed upon at the ballot inspection.

21           C. The petitioner or the petitioner's opponents may have  
22 all ballots in any way involved in the election and all  
23 records required by law to be kept in connection with  
24 absentee ballots displayed for counting or inspection.

25           D. Witnesses may be called by the candidates and may be  
26 sworn by any municipal officer. If authorized by the  
27 municipal officers, the municipality shall pay witness fees  
28 as provided in Title 16, section 251. A record of the  
29 recount proceedings must be kept if a candidate so requests.

30           E. If, during the recount, the election is conceded to a  
31 candidate by a statement signed by the other interested  
32 candidates and addressed to the municipal officers, the  
33 municipal officers shall stop the recount and issue a  
34 certificate of election to the candidate whose election is  
35 conceded.

36  
37           7. Package resealed and marked. After the recount, the  
38 municipal clerk shall reseat the packages of ballots and the  
39 incoming voting lists and shall note the fact and date of the  
40 recount on them.

41           8. Withdrawal from recount. A losing candidate who  
42 requests and receives a recount may withdraw from the recount at  
43 any time while the recount shows that candidate to be the loser.  
44 If, during the recount, the losing candidate overtakes and passes  
45 the winning candidate, the losing candidate may not withdraw and  
46 the recount must be completed.

2            **9. Certificate of election.** Within 24 hours after the  
4            results of a contested election are determined, the municipal  
6            officers shall certify the results of their count to the  
8            respective candidates involved and issue a certificate of  
             election to the candidate whom they find to have been elected.  
             This certificate of election supersedes any certificate issued  
             previously.

10           **10. Calculation of time.** The periods established in this  
12           section must be calculated according to the Maine Rules of Civil  
14           Procedure, Rule 6(a). The final day of any period calculated  
16           pursuant to this section ends at the close of regular business  
18           hours in the office of the municipal clerk. Actions required to  
             be taken by the end of a day certain that are taken after the  
             close of regular business hours in the office of the municipal  
             clerk on the day certain are not timely.

20           **Sec. 14. 30-A MRSA §2532**, as amended by PL 1989, c. 104, Pt.  
             C, §§8 and 10, is further amended to read:

22           **§2532. Referendum ballot inspection and recount procedure**

24           In the case of a referendum, a ballot inspection or a  
26           recount hearing shall must be granted upon written application of  
28           10% or 100, whichever is less, of the persons whose names were  
30           checked on the voting list at any town referendum or ballot  
32           question under section 2105 or 2528, or any city referendum. The  
             time limits, rules and all other matters applying to candidates  
             under sections ~~2530~~ 2530-A and ~~2531~~ 2531-A apply equally to  
             applicants for either the inspection or recount.

34           **Sec. 15. 30-A MRSA §2533, first ¶**, as amended by PL 1993, c.  
             473, §42 and affected by §46, is further amended to read:

36           Within ~~20~~ 30 days after election day, a person who claims to  
38           have been elected to any municipal office may proceed against  
             another who claims title to the office by the following procedure.

40           **Sec. 16. 30-A MRSA §2556**, as amended by PL 1989, c. 104, Pt.  
             C, §§8 and 10, is further amended to read:

42           **§2556. Ballot inspection; recount; challenge for office**

44           Sections ~~2530~~ 2530-A to 2533 apply in a city and govern  
46           ballot inspections, recounts of elections for office, referenda  
48           and the procedure for challenging a person who claims title to an  
             office.

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2 Sec. 17. 30-A MRSA §5404, sub-§1, ¶A, as amended by PL 1989,  
c. 104, Pt. C, §§8 and 10, is further amended to read:

4 A. ~~No--revenue~~ Revenue bonds of a town, as distinguished  
6 from a city, may not be issued until the general purpose for  
8 which the bonds are to be issued and the maximum principal  
10 amount of the bonds to be authorized have been approved by  
12 ballot by a majority of the votes cast on the question. The  
total number of votes cast must be equal to at least 20% of  
14 the total vote for all candidates for Governor cast in the  
municipality at the last gubernatorial election. The ballot  
16 submitted to the voters of a town to authorize the issuance  
of revenue bonds shall must state the general purpose for  
18 which the proposed bonds are to be issued and the maximum  
principal amount of the proposed bonds authorized to be  
issued. The voting at meetings held in towns shall must be  
held and conducted in accordance with sections 2528 to 2531  
20 2531-A, even if the town has not accepted the provisions of  
section 2528.'

22 **STATEMENT OF FACT**

24 The amendment replaces the original bill and makes the  
26 following changes to municipal election laws.

28 1. The amendment changes the deadline for filing nomination  
papers for municipal office from 35 to 45 days before an election  
30 to allow more time for producing ballots. The amendment also  
changes the deadline for filing a petition for a local option  
32 election from 42 days to 45 days before an election.

34 2. The amendment requires a candidate who wishes to  
withdraw from an election to notify the municipal clerk at least  
36 45 days before the election. The clerk has the discretion to  
accept a candidate's request for withdrawal within the 45-day  
38 period before an election. Candidates who wish to withdraw shall  
notify the municipal clerk in writing of their intent to withdraw  
40 and the reason for withdrawal. The notice must be signed by the  
candidate and notarized. The clerk must ensure that ballots are  
42 prepared to reflect the candidate's withdrawal.

44 3. The amendment eliminates the requirement that absentee  
ballots be marked as such, making local election law identical  
46 with state election law.

48 4. The amendment eliminates a specific ballot size  
requirement and allows municipalities to use paper that is  
50 uniform in size. The amendment also eliminates language that

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COMMITTEE AMENDMENT "A" to H.P. 1110, L.D. 1506

2 specifies exactly where ballots must be marked as "Official  
Ballots."

4 5. The amendment clarifies the laws concerning the  
inspection of ballots and incoming voting lists and recounts by  
6 candidates for municipal offices. The amendment lengthens the  
time in which a candidate must notify the clerk to request an  
8 inspection or recount, sets a new scale for requiring deposits  
for inspections and recounts and clarifies how time is calculated  
10 for purposes of inspections and recounts.

12 6. The amendment makes technical changes by correcting old  
references in the Maine Revised Statutes, Title 20-A and Title  
14 28-A to reflect new references created in Title 30-A.

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